App. F. IX-4

1926.

File No. 36-26

*Previous References*
37.44-25(1-2)

( Courts)

Serial Nos. 1-4

*Later References*
Ch 150-37-1 & 2

PRESERVED

# General and Revenue Secretariat.

*Serial Nos.* Four

**Part B for** January 1927

**SUBJECT**

Forwarding for sanction Rules prescribing the procedure for reference in the High Court under section 66 of the Income tax Regulation of 1923.

GO No P 3152-38.6-1-27

To the Registrar, High Court
Comrs of Income tax.

Approved of the Rules with certain modifications

Manarsamy Iyengar
18-1-27

R. S. III -1] 1926-27

GENERAL AND REVENUE SECRETARIAT.

Courts

NOTES.

File No. 36-26

FILE HEADING.

Rules for references to the Chief Court under the Income tax Regulation - 1923

From

The Regr Chief Court

Doc No. 1125 Dated 23.7.26 Received 27.7.26

| Diary No. 422 | Enclos. 1 | Spare Copies. | Serial No. 1 |
|---|---|---|---|

BRIEF ABSTRACT OF LETTER.

Forwards for sanction under section 21 of the Chief Court Regulation Rules prescribing the procedure for references to the Chief Court under section 66 of the Income tax Regulation of 1923

NOTES AND ORDERS.

Financial Asst Secy's note.

Please see paras 7 and 8.

2nd B.S.A.

Secd. 29

Rules 7 and 8 seem to be equitable and the Rules as framed may be sanctioned. The Administrative department may also be consulted if necessary.

30/7/26

30/7

NOTES—First Sheet.

WD. 1881—GPB—30 000—1-8-21

WD 01264—GPB—40,000—17-12-25



General and Revenue Secretariat

CS File No. 36 of 1926.

Serial No

3) Is a copy of the Madras rules on which the draft is alleged to be based, available. If so, please put it up as also the Departmental file (Income Tax Branch) in which this question is discussed. cag 2/8

4) Looked into a copy of the Fort St George gazette of 19.1.26 containing the Rules of the High court of Madras on the subject. The Income Tax Branch file G.J. 46.25 Pt I+2 is also submitted.

5) The draft is based on the Rules issued in Madras — in fact, it is almost a verbatim copy. As our Regulation is also based on the Act in force in Madras & as there is no change in the Section under which the rules are proposed to be issued, the Madras rules may be adopted, with verbal changes suggested in pencil.

6) The following aspect is however, submitted for consideration. Under rule 7, the Commissioner of Income-tax, has to submit the draft to the Assessee who Counsel & take his suggestions. The rules now proposed are to provide for cases where the Commissioner refuses to refer a case to the Chief Court & the Chief Court

NOTE.—Contn. Sheet

General and Revenue Secretariat | File No. 86 of 1926.

Serial No

on the application of the party, ask the Commissioner to refer the case. Under the circumstances it is rather hard on the Commissioner to submit the draft to the party & take his suggestions. If the party is not agreeable to the draft, he may state his case before the Chief Court alone. It is perhaps desirable to consult the Commissioner on this point, before approving the rules. In case the rule is to be adopted because in Madras it is in force, it is perhaps desirable to substitute the word "forward" for the word "submit" in rule 7. This would be less objectionable. Rule 8 is in consequence of rule 7 & will depend upon the decision of the Govt as to rule 7.

A

Dy Secy

7) (1) may be done unofficially

8) Forwarded unofficially with compliments to the Commissioner for favour of opinion

By order
C Abdul Ghani
for Secy to Govt
4-9-26.

U.O. No. P 6 of 26-27
P 6 K. September 1926.

15533

OFFICE OF THE COMMISSIONER OF INCOME TAX IN MYSORE.
Recd. SEP 6 1926
No. C. 196/26-27
Enclosures if any. —

GEN. & REV. SECTT. BR. P 15. SEP. 1926 G. D. SECTION.

U.O. No. C. 196/26-27
Dated 14th September 1926.

9) If the proposed Rule (Rule 7) is

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-25
[App. F. III—2

General and Revenue Secretariat

437 f 25 File No. 86 of 1926.

Serial No.

sanctioned, it will become necessary to appoint a standing counsel for the department to prepare statements of cases and furnish opinion on doubtful questions of law and to represent the Commissioner in income-tax cases before the Chief Court. It is believed that there is a standing counsel in Madras, where similar rules are in force, for this purpose, but this fact and the details connected therewith have to be definitely ascertained. The information will be obtained and furnished if desired.

A

A Ramaswamy

Commissioner of Income Tax.

To- The Revenue Secretary, with compliments.

Ld Secy)

Cag 1823

(6) The appointment of Standing Counsel is not necessary by the adoption of rule 7. It is the Counsel for the assessee that is contemplated in the rule & not the Counsel for the Comr.

(11) The word 'forward' may be substituted for 'submit' in Rule 7.

(12) As these rules are in consonance with the Income-tax Act in force in Br India & as the same Act is in force in Hyde, the rules may perhaps be adopted & approved.

1st member. 4/10

2nd member.

(13) The information referred to at A 2/10 may be obtained

Cag 2/10

5/10

3770 7/10

OFFICE OF THE SECOND MEMBER OF COUNCIL
7 OCT. 1926
No. 2604

NOTE—Contn. Sheet

1956

WD 01229—GPB—37,500—1-9-26
App. F. III—2

General and Revenue Secretariat

File No. 36 of 192 G. 2

| Serial No. | |
|---|---|
| 14 | Forwd with draft - Please address Commissioner Income tax - vide his U.O. note dt 9/10/26 Cag 9.10 |
| 15 | Forwd with draft (revised) - 16/10 Issue Cag 13/10 12/10/26 |
| | To The Commr of Income tax Camp. Crop 43. D/14-10-26. Request to ascertain whether a Standing Counsel is appointed in Madras for the preparation of Statement of Cases & to furnish opinion in doubtful questions of law & also to represent the Commr of Income tax in Cases before the Chief Court |
| 3 | From The Commr of Income tax Letter No C 196 D 29.10.26 Forwards an extract obtained from the Commissioner of Income tax in Madras in the matter of the appointment of Special Counsel for Income tax in Madras together with the duties of the Special Counsel. |
| 17 | Forwd with reference to para 13 above L&L Secy 2nd Nov 2/11/26 Cag 2/11 3/11 Cag 3/11 |

OFFICE OF THE SECOND MEMBER OF COUNCIL
3 NOV. 1926
No. 3107

NOTE—Contn. Sheet

WD 01229—GPB—37,500—1-9-26
App. F. III—2]



Serial No.

19 I agree with the L. & L. Secretary that the sanctioning of Rule No. 7 of the Rules proposed by the Chief Court does not by itself necessitate the appointment of a Standing Counsel for the Income-tax Department. The Income tax Law has been in force here only for a few years and I do not think any lawyer has specialised in it. When experts in Income-tax Law are available, the arrangement of having a Standing Counsel for the Department may be intr-duced with advantage. In the meantime, the existing system under which lawyers are engaged according to the nature of the cases as they come up, may continue

19 Rule No. 1.- Is it not necessary to provid also for the exhibition of copies of orders of Deputy Commissioners of Income-tax?

20 Rule No. 3.- For "Act" in line 3 should be substituted "Regulation".

21 Rule No. 7.- For "submit" in line 2 may be substituted "forward" as proposed by the L.& L. Secretary.

22 I do not quite understand why this Rule proposes to supply the Counsel for the Assessee with three copies of the statement of his case. What is the object of giving him three copies ?

23 The Rule, as it now stands, provides that "the Commissioner of Income-tax having stated a draft case, shall submit the same to the

'furnish' is even better

I think one copy is enough

20/11/26

Serial No.

the assessee." It is not clear when the statement of the case should be submitted to the Chief Court; whether before consultation with the assessee or after such consultation.

4 Rule No. 10.- This does not read properly as it now stands. I believe the word "be" in line 1 should not be there and without it the Rule would read all right.

5 The proposed Rules have to be sanctioned under the Chief Court Regulation and the case has, therefore, to be submitted to the First Member. Before such submission, however, the points relating to the Rules to which I have referred above, may be considered again by the Income-tax and Judicial Branches.

9/11/26
9.11.

6 Submitted to the Second Member in person, after discussing the points raised with the Registrar of the Chief Court who sent up the draft Rules. The Member was pleased, after discussion, to indicate the changes noted by him in the margin.

7 Draft rules are revised accordingly & may now be approved.

Please show to Rep. of Govt. of India & Secy. to Govt. of Punjab (Judicial) for information.

Note—Contn. Sheet

WD 01226—GPB—37,500—19-26
App. F. III—2]

Serial No. 33

The Registrar suggests that the file may be sent unofficially that the approval of the Judges may be obtained & the file sent back. This will appear to be done.

Lt Secy

cag 29.11

34 yes 8/12 29.11 cag 29.11

35 Forwarded with compliments, unofficially to the Registrar, Chief Court for favour of furnishing the opinion of the Chief Court.

B. O
C Abdul Gham
Dept. Secy

30/11/26

H. C. No. p 13 of 26 of 2nd December 1926

CHIEF COURT 3 - DEC. 1926 OF MYSORE

Chief Court of Mysore,
Bangalore, 7th December 1926.

Revenue 1125 25-26.

36 Returned, with compliments, to the Secretary to Government, Local & Legislative Departments.

37 The Judges have no objection to the several alterations in the rules, proposed by Government, as set forth in paras 18 to 29 of the Secretariat file.

Theemis Lopez Chin 7/12/26
REGISTRAR.

5 yes 8/12

TMN/2

38 Reference para 32. The Rules may be approved now.

Lt Secy
1st member.

5 9/12

cag 9.12 8/12 cag 8/12 Dept 9.12.26 9

NOTE.—Contn. Sheet

1956

WD 01229—GPB—37,500—1-9-26
App. F. III—2]

General and Revenue Secretariat

File No 36 of 1926.

Serial No.

Submitted with a draft G.O.

Please bring up with the Income tax Regulation. Who is to issue these rules? Do it not the Chief Court? or have they got to be notified

14/12

17/12

Draft may issue

31/12

Taken by the Tax Returned on 23/1/26.

To the Regn Chief Court

The Income Comm.

No P 3152-3 dt 6-1-27.

Sanctions the draft rules.

18/1

NOTE. Contn. Sheet

422-926

Telgm: "JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

*Bangalore*....23rd...July.....*1926*.

R. O. C. No. 1125-25-26 Encl

DIARY NO. 329

19 — 19

Section. C5

File No. 36-26

Item No. 1

*From*

A. Sreenivasaragavachari, Esq., B.A., B.L.,
*Registrar, Chief Court of Mysore.*

GEN. & REV. SECTT. BR. 26. JUL. 1926 G. D. SECTION. FINANCIAL SECRETARIAT. 27. JUL. 1926

*To*

C. Ranganatha Rao Saheb, Esq., B.A., B.L.,
Secretary to Government of Mysore,
Revenue Department,
BANGALORE.

*Sir,*

I am directed to acknowledge the receipt of your letter No. Fl. 5498/I.T. 44-25-2 dated the 25th March 1926 inviting reference to the rules published in the Fort St. George Gazette dated the 19th January 1926 regulating the procedure to be adopted in cases under Section 66 of the Indian Income Tax Act 1922 with a view to the Chief Court taking such action as may be deemed fit to regulate the procedure here also.

In reply, I am to enclose herein " Draft Rules for references under Section 66 of the Mysore Income-tax Regulation of 1923" for regulating the procedure here and to request that Government may be pleased to accord their sanction under Section 21 of the Chief Court Regulation.

I have the honour to be,
Sir,
Your Most Obedient servant.

M Venkatasingacharya.
for REGISTRAR.

KVN/-

APP. F. VI. Gl.]

SUBJECT.....

.....

.....

Section cls

File No. 36-28

Serial No. 2

*Diary No. of letter replied to*.....

Camp No. p43

General and Revenue Secretariat

( )

*the* *192*

To

The Commissioner of Income-tax

Madras

Date of issue 14/10/26

Signed by Mr. C. A. Ghani

Sir

I am directed to invite your reference to your D.O. No: C 196/26-27 dt 16-9-26 furnishing your opinion on the draft rules framed by the Chief Court for references under section 66 of the Income-tax Regulation of 1923, and to request you to state whether it is proposed to appoint a Standing Counsel in Madras ~~to advise the Income-tax Commissioner for the preparation of draft cases (vide Rule 7 - 2 copy enclosed)~~ to furnish opinion on doubtful questions of law, or will act to represent the Commissioner of Income-tax in cases before the Chief Court.

Statement of cases

I have etc

List of enclosures.....

Copied by.....

Examined by.....

*over*

WD 01265—GPB—31,000—4-12-25

12/10/26

Case 13/10 Work done

I. T. 68

I. T. 68

In reply refer to C.196/26-27

No. 2

Encl. One

1956 / P 828 / 3

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

Bangalore 29th October 1926.

Confidential.

Cb 36-26-3

FROM

B. Ramaswamaiya, Esq., B.A., B.L.,

~~XXX~~ THE COMMISSIONER OF INCOME-TAX IN MYSORE.

To

B. Nagappa, Esq., Bar-at-Law,
Secretary to the Government of Mysore,
Local and Legislative Departments.

Put up previous returns & 30/xx.

Sir,

With reference to your letter No. Camp P.43/Cts. 36-26 dated the 14th instant, I have the honour to enclose herein, an extract of the information obtained confidentially from the Commissioner of Income Tax, Madras, in the matter of the appointment of Special Counsel for Income Tax in Madras.

I have the honour to be,
Sir,
Your most obedient servant,

B. Ramaswamaiya

Commissioner of Income Tax.

Enclosure to letter No. C.196/26-27 (Confidential) dated 29th October 1926 from the Commissioner of Income Tax in Mysore to the Secretary to the Government of Mysore, Local and Legislative Departments, Bangalore.

---

"The Government of India have sanctioned the employment of a Special Counsel for Incometax in Madras on the following terms and conditions:

Retaining fee: Rs 300 per mensem

Other fees : Rs 300 (maximum) for each High Court Reference and Rs 100 (maximum) for each mandamus application that is dismissed. If a reference is called for as a result of such application, no separate fee to be paid for opposing the application. (The arrangement regarding mandamus applications is at present a dead letter as these are now heard ex parte. But the High Court will probably be asked in the near future to alter its procedure and give us a hearing at the application stage).

Duties. To represent the Commissioner before the High Court, to give legal advice to the Commissioner when necessary, and to give an undertaking not to appear against Government in any Incometax matter.

The arrangement with the present Special Counsel is terminable on two months notice by either party."

---:(0):---

A Ramaswamy

Commissioner of Income Tax.

Bangalore,
29-10-1926.

5

G.R..S VI G 34]

SUBJECT.....

.....

.....

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*, the* 192

Date of issue 6/1/27

Signed by.....

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

**Section** C15

**File No.** 36-26

**Serial No.** 4

*Proceedings of the Government of His Highness the Maharaja of Mysore.*

*Read*— Letter No R.O.C 1125/25.26 from the Registrar, Chief Court forwarding for sanction under section 21 of the Chief Court Regulation, draft rules for regulating the procedure of the Chief Court in cases of reference to that Court under Sec. 66 of the ~~Order Thereon No.~~ Income Tax Regulation of 1923.

2. R.O. No R.O.C 1125/25.26 dt. 7.12.26 from the same office communicating the

Please type-write above.
M.S.
41/27
2800m

approval of the Judges
to certain alterations
in the rules.

Order. S 3152-3 one to each

The draft rules as
modified are submitted
& approved by this Order

copy h 1-2 ins
17.1.—

W.

The Registrar, Ch: Div: Bloomsbury C.C
.. J.T. ins
copy 25 ll ins

*List of enclosures.*

*Copied by*

*Examined by*

WD 1883—GPB—1,000,00—21-12-21

~~CHAPTER XXXIV.~~

***

Rules for references under the Income Tax Regulation.

********

1. In every case in which the Commissioner of Income-tax has refused to state a case for the opinion of the Chief Court, and it is desired to obtain an order from the Chief Court requiring him to state a case, the prayer shall contain in precise language a statement of the point of law upon which the case is to be stated. The application must be supported by an affidavit, by the assessee himself, and, if necessary, a further affidavit by some one acquainted with the facts, setting out concisely the material facts giving rise to the alleged point of law, and setting out the proceedings which have taken place before the Income-tax Officers and shall exhibit copies of the orders of the Income-tax Officer, and the ~~Assistant~~ Deputy Commissioner of Income-tax and of the order of the Commissioner of Income-tax disposing of the case.

2. Such applications shall be entitled "Income-tax Regulation 1923, case No.....of..... 192..--192.. ex-parte (name of assessee)". They shall be presented in the manner required under rules 1 and 2 of the Chief Court rules.

3. The Court hearing such applications and deciding cases stated under the Income-tax ~~Act~~ Regulation, shall be a Bench of ~~at least~~ two Judges of the Chief Court.

8

4. In the event of the court requiring the Commissioner of Income-tax to state a case, notice of the order containing the question or questions of law on which the case is to be stated, and a copy of the judgment, if any, delivered by the Court and a copy of the affidavits filed in support of the application, shall be sent by registered post to the Commissioner of Income-tax.

5. Counsel presenting such an application shall be bound to accept service on behalf of the assessee of any notices issued by the Chief Court, or, of any communications which the Commissioner of Income-tax may desire to make, until the case has been finally disposed of, or an application for change of counsel has been filed in court, and a copy thereof sent by the assessee to the Commissioner of Income-tax.

6. All cases stated by the Commissioner of Income-tax shall as far as possible be divided into paragraphs numbered consecutively, and shall concisely state such facts and refer to such documents with copies of the latter annexed, as may be necessary to enable the court to decide the question raised thereby.

7. The Commissioner of Income-tax ~~having stated a draft case~~, shall ~~submit~~ furnish a draft of the statement of the case ~~the same~~ to the assessee or his counsel, with a request to supply him with any suggested additions or amendments relating to the statement of facts or to the inclusion of documents within fourteen days of the receipt of the same by the person to whom it is sent. In the event of no suggestions for addition or amendment being received by the Commissioner of Income-tax within the said fourteen days he shall settle the case in its final form and supply ~~three copies~~ a copy thereof to counsel for the assessee.

8. In the event of any question arising upon the statement of such case upon which the Income-tax Commissioner and the assessee are unable to agree, either of them may apply to the court mentioned in rule 3 after giving three days' previous notice in writing to the other party for a direction as to the form in which such questions shall be stated in the case, without prejudice to the provisions of Section 66(4), and the costs thereof shall be dealt with by the Chief Court in accordance with Section 66(6).

9. Upon the argument of such case the Court and the parties shall be at liberty to refer to the wh of the contents of the documents annexed to the cas

10. The statement of the case shall ~~be~~ set out in the concluding paragraph thereof the point of law to be decided as stated in the application of the assessee, or any modified form thereof which the Chief Court may have ordered, together with the opinion of the Commissioner of Income-tax thereon.

11. In the event of the Commissioner of Income-tax being required by the assessee, or by the ~~High~~ Chief Court, to state more than one distinct point of law arising out of the same assessment, the facts and documents relating to each of such questions of law together with the question of law and the Commissioner opinion thereon shall, unless otherwise ordered by the ~~High~~ Chief Court, be set out in a separate case, to ea of which these rules shall apply.

12. The Court disposing of the case shall fix the fees payable by or to either party in their absolute discretion.